

12/5/03

LRB - 1094

He w/ Kathy Marsh

- ~~3~~

- draft / 3

⇒ make following  
changes

- can make <sup>technical</sup> change  
re section 4

- need ASAP

**Gary, Aaron**

---

**From:** Gary, Aaron  
**Sent:** Monday, December 08, 2003 9:52  
**To:** Marschman, Kathy  
**Subject:** RE: LRB 1094

Kathy,

A couple more follow ups:

1. If the bill is making grants to a private entity for a specified purpose, the bill should include language requiring the entity to make an annual accounting of grant funds. The bill should also provide that grants will stop if the entity files bankruptcy, etc. I have some language already worked out for this that is pretty standard for this type of provision. Under these circumstances, the statutory language usually requires DOT to enter into a contract with the non-profit for distribution of the proceeds and the contract must include these terms.

2. Looking more closely at the changes we discussed to bill section 7 and 8, striking the language discussed ("for which a shoulder harness has been installed") at p. 5 lines 10-11 and 17, would (a) create a higher standard for the back seat than the front seat, and (b) potentially require somebody to be restrained in a seat where a seat belt is not required. What if, instead of striking "for which a shoulder harness has been installed," we substitute either of these phrases: (a) "for which a safety belt has been installed" or (b) "for which a safety belt is required to be installed"?

Aaron R. Gary  
 Legislative Attorney  
 Legislative Reference Bureau  
 608.261.6926 (voice)  
 608.264.6948 (fax)  
 aaron.gary@legis.state.wi.us

*file w/ Kathy 12/10*  
*- use this one*

-----Original Message-----

**From:** Marschman, Kathy  
**Sent:** Friday, December 05, 2003 5:15 PM  
**To:** Gary, Aaron  
**Cc:** Marschman, Kathy  
**Subject:** FW: LRB 1094

Aaron-

Upon receiving these additional comments from DOT, I agree that it would be better to award the grants to organizations, instead of directly to individuals. Perhaps we could have Safe Kids be the designated distributor, much like the Tavern League is the distributor of funds for the Safe Ride Home Program, PLUS, by doing so maybe it would eliminate/reduce some DOT administrative costs. I've got a call in to Nan Peterson of Safe Kids so can hopefully finalize this on Monday morning.

Regarding the Section 4 language... I am aware of the constitutional question. I've not looked at the Ch. 59 references in Lorelee's message. Do we need to discuss this or do you have a way to draft it. I thought you said you had a change in mind, but that was before this latest DOT message.

Let's talk Monday morning.

Thanks!  
 Kathy

-----Original Message-----

**From:** Brumund, Lorelee  
**Sent:** Friday, December 05, 2003 5:01 PM  
**To:** Marschman, Kathy

12/12/2003

**Cc:** Savage, James; Hughes, Dennis - DSP; Lonsdorf, Daniel; Wagner, Pat - DSP; Smith, Karen - DSP; Shah, Brian; Collins, David - State Patrol; Nilsen, Paul  
**Subject:** RE: LRB 1094

Kathy, you have already received some comments from Jim Savage in a December 4 email, regarding LRB 1094 (child safety restraints / booster seats). As he indicated, I have been attempting to understand the language related to funding the *Child Safety Restraint System Grant Program*. In that quest, I conferred with DOT attorney Paul Nilsen who not only provided me with some interpretation, but also forwarded comments to your LRB drafter Aaron Gary.

Specifically, our interpretation includes:

- \* Language in Section 4 of the draft directs the county to deposit 50% of the child safety seat base deposit in the transportation fund for grants under the bill, indicating that the county keeps the other 50%. This language, however, raises the question about the constitutionality of directing "clear proceeds" of forfeitures to the transportation fund rather than the school fund. This appears to violate the Wisconsin Constitution and may cause legal problems if a court orders DOT to transfer the collected moneys back to the school fund.
- \* However, language to more clearly state that the county keeps 50% as fees and deposits the remaining 50% as proposed in s.59.25(3)(j) / Section 3, may be a better approach. But keep in mind that chapter 348 penalties are handed under s.59.23(3)(k) in a similar fashion and does not mention the county keeps 50% as fees.
- \* In any case, using an total of 4300 child safety restraint convictions (the 2002 total) for calculating the amount of funds the *Grant Program* could expect to total, we estimate an annual amount of \$86,000. Since our records do not indicate the number of safety restraint convictions in s.347.48(4)(a)1 and s.347.48(4)(a)2, each of which has a different base deposit, I used a 50% split between the two violations. Thus:
  - 50% of \$30 base deposit for s.347.48(4)(a)1 = \$15
  - 50% of \$10 base deposit for s.347.48(4)(a)2 = \$ 5
  - \$20 x 4300 convictions = \$86,000 annually.

You need to determine if this is enough funding for the *Grant Program*.

- \* The language in the proposal requires DOT to award grants directly to low-income families, creating a lot of grants applicants and awards. Perhaps a better approach would be to re-write language to permit DOT to provide grants to organizations (e.g. Boys & Girls Clubs, Head Start) to they can give the safety seats to low-income families. This would ease the grant process and generate some economies of scale, let alone use resources better equipped to identify those in "need" rather than relying on DOT determinations.

I hope this information helps. Please contact me or Jim Savage if you have further questions or concerns.

-----Original Message-----

**From:** Brumund, Lorelee

**Sent:** Wednesday, December 03, 2003 3:50 PM

**To:** Marschman, Kathy

**Cc:** Savage, James

**Subject:** LRB 1094

I have been working with Jim Savage on reviewing LRB 1094 (child safety boosters) along with Dennis Hughes and Lt. Lonsdorf. We are attempting to get to you as much information on our "read" of the proposal as soon as possible. We can appreciate that the LRB is now on an even faster track than before.

I have queried our budget folks on the citation revenue from the base deposit for violations of s.347.48(4)(a)(1). I need some points clarified before I can estimate how much revenue would be created to fund the *Child Safety Restraint Grant Program*. We want to be sure that the generated

revenue will be adequate to fund the *Program*.

As soon as I get something to work with, either I or Jim will contact you again.

Any other concerns, please contact me or Jim directly.

**Gary, Aaron**

---

**From:** Gary, Aaron  
**Sent:** Monday, December 08, 2003 9:14  
**To:** Marschman, Kathy  
**Subject:** RE: LRB 1094

Hi Kathy,

Hope you had a good weekend. As I indicated, I had previously received a call from DOT re the ch. 59 language. I have made a slight change that takes care of the concern. Re the grant proceeds, we should include some type of "back up" in case the Safe Kids program eventually ceases - something requiring DOT to select another distributor that is a non-profit with a purpose of advancing safety in transporting children in motor vehicles (something along those lines).

I'll wait to hear back from you after you have spoken with Nan. I also should have an "official name" for the Safe Kids - is it Safe Kids Inc. or just Safe Kids or something else? Thanks. Aaron

Aaron R. Gary  
 Legislative Attorney  
 Legislative Reference Bureau  
 608.261.6926 (voice)  
 608.264.6948 (fax)  
 aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Marschman, Kathy  
**Sent:** Friday, December 05, 2003 5:15 PM  
**To:** Gary, Aaron  
**Cc:** Marschman, Kathy  
**Subject:** FW: LRB 1094

Aaron-

Upon receiving these additional comments from DOT, I agree that it would be better to award the grants to organizations, instead of directly to individuals. Perhaps we could have Safe Kids be the designated distributor, much like the Tavern League is the distributor of funds for the Safe Ride Home Program, PLUS, by doing so maybe it would eliminate/reduce some DOT administrative costs. I've got a call in to Nan Peterson of Safe Kids so can hopefully finalize this on Monday morning.

Regarding the Section 4 language... I am aware of the constitutional question. I've not looked at the Ch. 59 references in Lorelee's message. Do we need to discuss this or do you have a way to draft it. I thought you said you had a change in mind, but that was before this latest DOT message.

Let's talk Monday morning.

Thanks!

Kathy

-----Original Message-----

**From:** Brumund, Lorelee  
**Sent:** Friday, December 05, 2003 5:01 PM  
**To:** Marschman, Kathy  
**Cc:** Savage, James; Hughes, Dennis - DSP; Lonsdorf, Daniel; Wagner, Pat - DSP; Smith, Karen - DSP; Shah, Brian; Collins, David - State Patrol; Nilsen, Paul  
**Subject:** RE: LRB 1094

Kathy, you have already received some comments from Jim Savage in a December 4 email, regarding

12/12/2003

LRB 1094 (child safety restraints / booster seats). As he indicated, I have been attempting to understand the language related to funding the *Child Safety Restraint System Grant Program*. In that quest, I conferred with DOT attorney Paul Nilsen who not only provided me with some interpretation, but also forwarded comments to your LRB drafter Aaron Gary.

Specifically, our interpretation includes:

- \* Language in Section 4 of the draft directs the county to deposit 50% of the child safety seat base deposit in the transportation fund for grants under the bill, indicating that the county keeps the other 50%. This language, however, raises the question about the constitutionality of directing "clear proceeds" of forfeitures to the transportation fund rather than the school fund. This appears to violate the Wisconsin Constitution and may cause legal problems if a court orders DOT to transfer the collected moneys back to the school fund.
- \* However, language to more clearly state that the county keeps 50% as fees and deposits the remaining 50% as proposed in s.59.25(3)(j) / Section 3, may be a better approach. But keep in mind that chapter 348 penalties are handled under s.59.23(3)(k) in a similar fashion and does not mention the county keeps 50% as fees.
- \* In any case, using an total of 4300 child safety restraint convictions (the 2002 total) for calculating the amount of funds the *Grant Program* could expect to total, we estimate an annual amount of \$86,000. Since our records do not indicate the number of safety restraint convictions in s.347.48(4)(a)1 and s.347.48(4)(a)2, each of which has a different base deposit, I used a 50% split between the two violations. Thus:
  - 50% of \$30 base deposit for s.347.48(4)(a)1 = \$15
  - 50% of \$10 base deposit for s.347.48(4)(a)2 = \$ 5
  - \$20 x 4300 convictions = \$86,000 annually.

You need to determine if this is enough funding for the *Grant Program*.

- \* The language in the proposal requires DOT to award grants directly to low-income families, creating a lot of grants applicants and awards. Perhaps a better approach would be to re-write language to permit DOT to provide grants to organizations (e.g. Boys & Girls Clubs, Head Start) to they can give the safety seats to low-income families. This would ease the grant process and generate some economies of scale, let alone use resources better equipped to identify those in "need" rather than relying on DOT determinations.

I hope this information helps. Please contact me or Jim Savage if you have further questions or concerns.

-----Original Message-----

**From:** Brumund, Lorelee

**Sent:** Wednesday, December 03, 2003 3:50 PM

**To:** Marschman, Kathy

**Cc:** Savage, James

**Subject:** LRB 1094

I have been working with Jim Savage on reviewing LRB 1094 (child safety boosters) along with Dennis Hughes and Lt. Lonsdorf. We are attempting to get to you as much information on our "read" of the proposal as soon as possible. We can appreciate that the LRB is now on an even faster track than before.

I have queried our budget folks on the citation revenue from the base deposit for violations of s.347.48(4)(a)(1). I need some points clarified before I can estimate how much revenue would be created to fund the *Child Safety Restraint Grant Program*. We want to be sure that the generated revenue will be adequate to fund the *Program*.

As soon as I get something to work with, either I or Jim will contact you again.

Any other concerns, please contact me or Jim directly.

12/12/2003

**Gary, Aaron**

---

**From:** Marschman, Kathy  
**Sent:** Thursday, December 11, 2003 3:33 PM  
**To:** Gary, Aaron  
**Subject:** RE: LRB-1094 - SAFE KIDS language

Thanks for the draft language related to the grant program. Please use the language with the following information. The umbrella organization is Children's Hospital and Health System, which is tax exempt under 501(c)3. If it is possible, we would like to require the DOT to contract with Safe Kids Wisconsin, which is a subsidiary of Children's Hospital and Health System, though not separately or independently organized (so I'm not sure if it is legally considered a subsidiary or not).

If you need additional information please let me know and I'll work to get the answers.

Thanks-  
Kathy

-----Original Message-----

**From:** Gary, Aaron  
**Sent:** Wednesday, December 10, 2003 10:38 AM  
**To:** Marschman, Kathy  
**Subject:** LRB-1094 - SAFE KIDS language

<< File: 03-1094/3ins >>

Hi Kathy,

Here is some language I sketched out for the SAFE KIDS stuff. The whole "grant program" provision would be removed and the following would be inserted. Keep in mind that this hasn't been finalized or edited, and a few corresponding changes would have to be made elsewhere in the bill, but the attached will give you an idea of what I have in mind. After you have spoken with Nan or someone else from SAFE KIDS, please let me know how to proceed and if you want any changes to the attached. Thanks. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

## National SAFE KIDS Campaign

Notes to financial statements  
June 30, 2001 and 2000

### 1. Organization:

The National SAFE KIDS Campaign (the Campaign) is a nonprofit, wholly owned subsidiary of Children's National Medical Center (the Medical Center). The Campaign received a determination letter from the Internal Revenue Service indicating that it is exempt from Federal income tax under Section 501 (a) of the Internal Revenue Code as an organization described in Section 501(c)(3).

The Campaign's mission is to prevent the number one killer of children – unintentional injury. Its programs include: Community Health Services—activities conducted for the distribution of safety devices and hands-on training in the use of safety devices; Research, Training and Technical Assistance—programs designed to improve the knowledge and skills of the public health community in prevention and intervention; Public Education and Information—activities designed to raise awareness about unintentional injury and death and to promote effective safety practices for children and; Advocacy—activities designed to assist law enforcement officials in implementing laws which protect children against injury, and programs designed to raise lawmakers' awareness of the human and economic cost of unintentional injury to children.

### 2. Significant accounting policies:

#### Net assets

The financial statements report amounts separately by class of net assets as follows:

#### Unrestricted net assets

All contributions are considered unrestricted unless specifically restricted by the donor. If a restriction on a contribution is fulfilled in the same time period in which the related income is received the Campaign reports the income as unrestricted.

#### Temporarily restricted net assets

All amounts received by donors for specific purposes or for use in specific future periods are considered temporarily restricted until a stipulated time restriction ends and until the purpose of the restriction is accomplished. When the donor restriction expires, temporarily restricted net assets are reported in the statement of financial activities as net assets released from restrictions used for operations.

Unconditional promises to give that are expected to be collected within one year are recorded at their net realizable value. Unconditional promises to give that are expected to be collected in future years are recorded at present value of the amounts expected to be collected.



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1094~~4~~ 3

ARG:kmg:pg

Needed  
by 12/16  
end of day

KMR

2003 BILL

Gen. Cat.

1 AN ACT *to repeal* 347.50 (4); *to renumber and amend* 347.48 (4) (a) 1., 347.48  
2 (4) (a) 2. and 347.48 (4) (a) 3.; *to amend* 59.25 (3) (j), 343.32 (2) (bt), 347.48 (2m)  
3 (c), 347.48 (2m) (d), 347.48 (4) (b), 347.48 (4) (d), 347.487 (title), 347.50 (1),  
4 347.50 (3) (a) and 347.50 (3) (b); and *to create* 20.395 (5) (gq), 25.40 (1) (ik),  
5 59.25 (3) (jm), 85.56, 347.48 (4) (ag), 347.48 (4) (as), 347.482 and 347.50 (3) (b)  
6 3. of the statutes; **relating to:** child safety restraint systems, seating positions,  
7 and safety belt use requirements in motor vehicles, creating a Child Safety  
8 Restraint System ~~Seat~~ Program, making an appropriation and providing a  
9 penalty.

granting rule-making authority, → ion

**Analysis by the Legislative Reference Bureau**

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). A person who fails to comply with the child safety seat requirement is subject to a forfeiture of not less than \$30 nor more than \$75, but no forfeiture may be assessed if the vehicle was not

**BILL**

equipped with a child safety seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle. A person who fails to comply with the seat belt requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200.

This bill creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. Under this bill, a child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

2. At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

3. At least four years old but less than eight years old, weighs between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat positioned according to the child seating requirements described below.

4. Under the age of eight and exceeds the weight or height limits specified in Item 3., above, must be properly restrained by a seat belt (as under current law), and is subject to the child seating requirements specified below.

If a child, because of age, weight, or height, falls into more than one of these categories, the child must be transported according to the requirements of the more protective category. If a vehicle is not equipped with a back seat, the seating position requirement under Items 1. and 2., above, does not apply.

This bill prohibits a person from transporting a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Under the bill, the same penalty applies regardless of which specific requirement is violated. A person who fails to comply with any of these requirements is subject to a forfeiture of not less than ~~\$25~~ nor more than \$75 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than ~~\$25~~ nor more than \$200. However, no forfeiture may be assessed if the vehicle was not equipped with an applicable child safety restraint system at the time of the violation, the person provides proof that, within 30 days after the violation, a child safety restraint system was purchased or leased and properly installed in the vehicle, and the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within the immediately preceding three years.

\$50

\$75

**BILL**

The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least four years old but less than 12 years old is seated in a designated seating position as follows:

1. In a back seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.

2. If the vehicle does not have a seat described in Item 1., above, then in a front seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.

3. If the vehicle does not have a seat described in either Item 1. or 2., above, then in a back seat, unless each such seat is occupied by a younger or smaller child who is properly restrained.

4. If the vehicle does not have a seat described in any of Items 1. to 3., above, then in any seat determined by the vehicle operator to be the safest considering the child's age and size.

These requirements do not apply to a child required to be transported in a rear-facing or forward-facing child safety seat, who, as described above, must be transported in a back seat. Items 1. and 3., above, do not apply if the vehicle is not equipped with a back seat. A person who fails to comply with these requirements is subject to a forfeiture of \$10.

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years is properly restrained by a seat belt. ~~This bill extends this requirement to passengers up to the age of 16 years.~~

The bill also requires DOT to develop and administer a program to provide grants to low-income families for the purchase of child safety restraint systems. DOT must adopt rules to implement and administer the program, including standards and criteria for the awarding of grants.

Under current law, fines and forfeitures collected as a result of convictions for state traffic offenses are divided between the collecting local government and the state. Generally, 50 percent of all fines and forfeitures for state traffic offenses is deposited in the common school fund, but a different allocation, involving the deposit of 40 percent of all fines or forfeitures in the transportation fund and ten percent in the common school fund, is made for offenses related to the size, weight, and load of vehicles. This bill requires 50 percent of all forfeitures collected for child safety restraint system violations to be deposited in the transportation fund to be used exclusively for the Child Safety Restraint System ~~Program~~ Program.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

## BILL

20.395 (5) (gq) Child <sup>s</sup>safety <sup>R</sup>restraint <sup>S</sup>system <sup>program</sup> ~~grants~~, state funds. All moneys received from forfeitures under s. 347.50 (3) (a) allocated to the state, for the purpose <sup>s</sup> ~~of awarding grants under s. 85.56.~~ <sup>specified in</sup>

SECTION 2. 25.40 (1) (ik) of the statutes is created to read:

25.40 (1) (ik) All moneys forwarded by county treasurers from forfeitures under s. 347.50 (3) (a), as provided in s. 59.25 (3) (jm).

SECTION 3. 59.25 (3) (j) of the statutes is amended to read:

59.25 (3) (j) Retain 10% for fees in receiving and paying into the state treasury all money received by the treasurer for the state for fines and penalties, except that 50% of the state forfeitures, fines and penalties under chs. 341 to 347, 349 and 351 shall be retained as fees, and retain the other fees for receiving and paying money into the state treasury that are prescribed by law. This paragraph does not apply to forfeitures under s. 347.50 (3) (a).

SECTION 4. 59.25 (3) (jm) of the statutes is created to read:

59.25 (3) (jm) Forward <sup>the</sup> 50 percent of the forfeitures under s. 347.50 (3) (a) to the state treasurer for deposit in the transportation fund under s. 25.40 (1) (ik). <sup>that (are) not retained under par. (j)</sup>

SECTION 5. 85.56 of the statutes is created to read:

**85.56 Child Safety Restraint System Grant Program.** The department shall develop and administer a program to provide grants to low-income families for the purchase of child safety restraint systems, including infant and toddler car seats and child booster seats, for the purpose of promoting compliance with the requirements of s. 347.48 (4). Grants awarded under this section shall be paid from the appropriation under s. 20.395 (5) (gq). The department shall adopt rules to implement and administer this section, including standards and criteria for awarding the grants.

## BILL

1       **SECTION 6.** 343.32 (2) (bt) of the statutes is amended to read:

2       343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit  
3 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (a) (am).

4       **SECTION 7.** 347.48 (2m) (c) of the statutes is amended to read:

5       347.48 (2m) (c) If Subject to s. 347.482, if a motor vehicle is required to be  
6 equipped with safety belts in this state, no person may operate that motor vehicle  
7 unless he or she reasonably believes that each passenger who is at least ~~4~~ 8 years  
8 old and not more than ~~15~~ 16 years old and who is seated at a designated seating  
9 position in the front seat required under 49 CFR 571 to have a safety belt installed  
10 or at a designated seating position in the seats, other than the front seats, for which  
11 ~~a shoulder harness has been~~ <sup>struck</sup> installed is properly restrained.

safety belt is  
required to be

12       **SECTION 8.** 347.48 (2m) (d) of the statutes is amended to read:

13       347.48 (2m) (d) If Subject to s. 347.482, if a motor vehicle is required to be  
14 equipped with safety belts in this state, no person who is at least ~~4~~ 8 years old and  
15 who is seated at a designated seating position in the front seat required under 49  
16 CFR 571 to have a safety belt installed or at a designated seating position in the  
17 ~~seats, other than the front seats, for which a shoulder harness has been~~ <sup>strike</sup> installed may  
18 be a passenger in that motor vehicle unless the person is properly restrained.

19       **SECTION 9.** 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and  
20 amended to read:

21       347.48 (4) (am) ~~No~~ Subject to par. (au), no person may transport a child under  
22 the age of ~~4~~ 8 in a motor vehicle unless the child is properly restrained in compliance  
23 with par. (as) in a child safety restraint system is approved that is appropriate to the  
24 child's age and size and that meets the standards established by the department. ~~In~~  
25 ~~this subdivision, "properly restrained" means fastened in a manner prescribed by the~~

**BILL**

1 ~~manufacturer of the system which permits the system to act as a body restraint but~~  
2 ~~does not include a system in which the only body restraint is a safety belt of the type~~  
3 ~~required under sub. (1) under this paragraph.~~ The department shall, by rule,  
4 establish standards in compliance with applicable federal standards, including  
5 standards under 49 CFR 571.213, for approved types of child safety restraint  
6 systems for those child restraint systems purchased after November 1, 1982.

7 **SECTION 10.** 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and  
8 amended to read:

9 347.48 (4) (as) 4. ~~No person may transport a~~ Subject to subds. 1. to 3., if the  
10 ~~child who is at least 4 years old but is less than 8 years old in a motor vehicle unless,~~  
11 ~~the child is~~ shall be properly restrained in a child safety restraint system approved  
12 ~~by the department under subd. 1. or in a~~ safety belt approved by the department  
13 under sub. (2). ~~In this subdivision, “properly restrained” means fastened in a~~  
14 ~~manner prescribed by the manufacturer of the system which permits the system to~~  
15 ~~act as a body restraint,~~ positioned in compliance with s. 347.482.

16 **SECTION 11.** 347.48 (4) (a) 3. of the statutes is renumbered 347.48 (4) (au), and  
17 347.48 (4) (au) (intro.), as renumbered, is amended to read:

18 347.48 (4) (au) (intro.) Notwithstanding subds. 1. and 2. pars. (am) and (as),  
19 a person other than the operator of a motor vehicle transporting a child required to  
20 be properly restrained under subd. 1. or 2. pars. (am) and (as) may temporarily  
21 remove a child from a safety restraint system to attend to the personal needs of the  
22 child under all of the following conditions:

23 **SECTION 12.** 347.48 (4) (ag) of the statutes is created to read:

24 347.48 (4) (ag) In this subsection:

**BILL**

1           1. “Child booster seat” means a child passenger restraint system that meets the  
2 applicable federal standards under 49 CFR 571.213 and is designed to elevate a child  
3 from a vehicle seat to allow the vehicle’s safety belt to be properly positioned over the  
4 child’s body.

5           2. “Designated seating position” has the meaning given in 49 CFR 571.3.

6           3. “Properly restrained” means any of the following:

7           a. With respect to par. (as) 1. and 2., fastened in a manner prescribed by the  
8 manufacturer of the child safety restraint system which permits the system to act  
9 as a body restraint but does not include a system in which the only body restraint is  
10 a safety belt of the type required under sub. (1).

11           b. With respect to par. (as) 3., wearing a safety belt consisting of a combination  
12 lap belt and shoulder harness approved by the department under sub. (2) and  
13 fastened in a manner prescribed by the manufacturer of the safety belt so that the  
14 safety belt properly fits across the child’s lap and the center of the child’s chest in a  
15 manner appropriate to the child’s height, weight, and age that permits the safety belt  
16 to act as a body restraint.

17           c. With respect to par. (as) 4., fastened in a manner prescribed by the  
18 manufacturer of the system which permits the system to act as a body restraint.

19           **SECTION 13.** 347.48 (4) (as) of the statutes is created to read:

20           347.48 (4) (as) A child under the age of 8 years who is being transported in a  
21 motor vehicle shall be restrained as follows:

22           1. If the child is less than one year old or weighs less than 20 pounds, the child  
23 shall be properly restrained in a rear-facing child safety restraint system, positioned  
24 at a designated seating position in a back passenger seat of the vehicle if the vehicle  
25 is equipped with a back passenger seat.

**BILL****SECTION 13**

1           2. Subject to subd. 1., if the child is at least one year old and weighs at least 20  
2 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be  
3 properly restrained in a forward-facing child safety restraint system, positioned at  
4 a designated seating position in a back passenger seat of the vehicle if the vehicle is  
5 equipped with a back passenger seat.

6           3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8  
7 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more  
8 than 57 inches in height, the child shall be properly restrained in a child booster seat,  
9 positioned in compliance with s. 347.482.

10           **SECTION 14.** 347.48 (4) (b) of the statutes is amended to read:

11           347.48 (4) (b) The department may, by rule, exempt from the requirements  
12 under ~~par. (a)~~ pars. (am) and (as) any child who because of a physical or medical  
13 condition or body size cannot be placed in a child safety restraint system, child  
14 booster seat, or safety belt.

15           **SECTION 15.** 347.48 (4) (d) of the statutes is amended to read:

16           347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ pars.  
17 (am) and (as) is admissible in any civil action for personal injuries or property  
18 damage resulting from the use or operation of a motor vehicle but failure to comply  
19 with ~~par. (a)~~ pars. (am) and (as) does not by itself constitute negligence.

20           **SECTION 16.** 347.482 of the statutes is created to read:

21           **347.482 Child seating requirements.** (1) In this section, “designated  
22 seating position” has the meaning given in 49 CFR 571.3.

23           (2) Except as provided in s. 347.48 (4) (as) 1. and 2., no person may operate a  
24 motor vehicle unless he or she reasonably believes that each passenger who is less  
25 than 12 years old is seated as follows:

**BILL**

1 (a) At a designated seating position in a back passenger seat of the vehicle if  
2 the seating position is equipped with a combination lap belt and shoulder harness,  
3 unless all such seating positions are occupied by other passengers who are younger  
4 or weigh less and who are properly restrained in compliance with s. 347.48 (4).

5 (b) If the vehicle is not equipped with a seating position specified in par. (a), at  
6 a designated seating position in a front passenger seat of the vehicle if the seating  
7 position is equipped with a combination lap belt and shoulder harness, unless all  
8 such seating positions are occupied by other passengers who are younger or weigh  
9 less and who are properly restrained in compliance with s. 347.48 (4).

10 (c) If the vehicle is not equipped with a seating position specified in par. (a) or  
11 (b), at a designated seating position in a back passenger seat of the vehicle, unless  
12 all such seating positions are occupied by other passengers who are younger or weigh  
13 less and who are properly restrained in compliance with s. 347.48 (4).

14 (d) If the vehicle is not equipped with a seating position specified in par. (a), (b),  
15 or (c), at any designated seating position determined by the operator to be the safest  
16 seating position considering the age and size of the passenger.

17 (3) Subsection (2) (a) and (c) does not apply if the vehicle is not equipped with  
18 a back passenger seat.

19 **SECTION 17.** 347.487 (title) of the statutes is amended to read:

20 **347.487 (title) Seating Motorcycle seating requirements.**

21 **SECTION 18.** 347.50 (1) of the statutes is amended to read:

22 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s.  
23 347.415 (1), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4) (a)  
24 or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

25 **SECTION 19.** 347.50 (3) (a) of the statutes is amended to read:

**BILL****SECTION 19**

1           347.50 (3) (a) Any person violating s. 347.48 (4) (a) ~~1.~~ (am) may be required to  
2           forfeit not less than ~~\$30~~ <sup>\$50</sup> nor more than \$75. For a 2nd or subsequent conviction  
3           within 3 years, a person may be required to forfeit not less than \$75 nor more than  
4           \$200.

5           **SECTION 20.** 347.50 (3) (b) of the statutes is amended to read:

6           347.50 (3) (b) No forfeiture may be assessed under par. (a) if all of the following  
7           apply:

8           1. The motor vehicle was not equipped with a child safety restraint system  
9           meeting the requirements under s. 347.48 (4) (a) ~~1.~~ (am) at the time the uniform  
10          traffic citation was issued; and,

11          2. The person provides proof that, within 30 days after the uniform traffic  
12          citation was issued, a child safety restraint system meeting the requirements under  
13          s. 347.48 (4) (a) ~~1.~~ (am) was purchased or leased and properly installed in the motor  
14          vehicle.

15          **SECTION 21.** 347.50 (3) (b) 3. of the statutes is created to read:

16          347.50 (3) (b) 3. The person has not, within the immediately preceding 3 years,  
17          been issued a uniform traffic citation for a violation of s. 347.48 (4) (am).

18          **SECTION 22.** 347.50 (4) of the statutes is repealed.

19          **SECTION 23. Initial applicability.**

20          (1) This act first applies to violations committed on the effective date of this  
21          subsection, but does not preclude the counting of other violations as prior violations  
22          for purposes of sentencing a person.

23          **SECTION 24. Effective date.**

**BILL**

1           (1) This act takes effect on the first day of the 4th month beginning after  
2       publication.

3 (END)

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1094/3ins  
ARG:.....

**INSERT ANAL:** ✓

(no P) No person who is at least four years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a shoulder harness has been installed, unless that person is properly restrained. This bill extends this seat belt requirement to passengers up to the age of 16 years and applies the requirement to passengers in seats other than the front seat for which safety belts are required to be installed.

✓ The bill also requires DOT to develop and administer a program to provide child safety restraint systems to low-income families in this state. To administer the program, DOT must enter into an agreement with Safe Kids Wisconsin to provide funds to Safe Kids Wisconsin to purchase and distribute child safety restraint systems to low-income families in accordance with standards and criteria established by rule by DOT. Safe Kids Wisconsin must annually submit an audited financial statement of its use of the funds and may not receive funding if it dissolves or loses its tax-exempt status under federal law. (S)

**INSERT 4-17:** ✓

**85.56 Child Safety Restraint System Program.** (1) The department shall develop and administer a program to provide to low-income families in this state child safety restraint systems, including infant and toddler car seats and child booster seats, for the purpose of promoting compliance with the requirements of s. 347.48 (4). The department shall adopt rules to implement and administer this section, including standards and criteria for providing low-income families with child safety restraint systems.

(2) (a) For purposes of administering the program under sub. (1), the department shall enter into an agreement with Safe Kids Wisconsin, a non-profit, wholly-owned subsidiary of Children's Hospital and Health System, an organization described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, to make payments from the appropriation under s. 20.395 (5) (gq) to Safe Kids Wisconsin for the

purchase and distribution of child safety restraint systems to low-income families under the standards and criteria established by the department by rule.

(b) The agreement under this subsection shall require that Safe Kids Wisconsin annually submit to the presiding officer of each house of the legislature an audited financial statement of its use of the payments under this section, prepared in accordance with generally accepted accounting principles.

(c) Payments to Safe Kids Wisconsin under this section shall be discontinued by the department if either Safe Kids Wisconsin or Children's Hospital and Health System dissolves or is no longer exempt from taxation under section 501 (a) of the Internal Revenue Code, and the department shall designate a new recipient for payments under this section, which must be a non-profit organization with a purpose of promoting child safety and which must comply with any requirement specified in this section for Safe Kids Wisconsin.

**Barman, Mike**

---

**From:** Marschman, Kathy  
**Sent:** Wednesday, December 17, 2003 5:12 PM  
**To:** LRB.Legal  
**Subject:** Fiscal Estimate Request  
**Importance:** High

Request a fiscal estimate be prepared for LRB-1094/3. Please contact me with any questions.

Thanks-

*Kathy Marschman*  
*Research Assistant/Committee Clerk*  
*Representative Jerry Petrowski*  
*86th Assembly District*  
*608.266.1182/Toll-Free: 888.534.0086*

12/18/2003

## Fiscal Estimate - 2003 Session

☒ Original      ☐ Updated      ☐ Corrected      ☐ Supplemental

<b>LRB Number</b> <b>03-1094/3</b>		<b>Introduction Number</b>
<b>Subject</b> Location of children in vehicles and use of safety belts and child booster seats		
<b>Fiscal Effect</b>  <b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input checked="" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue      5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<b>Fund Sources Affected</b> <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.255(2)(s), 20.395(5)(gq)		<b>Affected Ch. 20 Appropriations</b>
<b>Agency/Prepared By</b> DOT/ Dennis Hughes (608) 267-9075	<b>Authorized Signature</b> Carol Buckmaster (608) 267-6979	<b>Date</b> 1/6/2004

copy sent  
to Rep. Petrowski  
01-06-2004

→ draft is now a "1/4"

→ Introduced  
As  
AB-724

## Fiscal Estimate Narratives

DOT 1/6/2004

LRB Number	03-1094/3	Introduction Number	Estimate Type	Original
Subject				
Location of children in vehicles and use of safety belts and child booster seats				

### Assumptions Used in Arriving at Fiscal Estimate

This bill re-directs the 50% of ch. 347 forfeitures for child passenger safety restraint (CSR) convictions, collected under existing 59.25(3)(j), Wis. Stats., from the Common School Fund to appropriation 20.395(5) (gq) in the Transportation Fund, as created under section 1 of this bill.

The bill requires the Department of Transportation to provide funds to Safe Kids Wisconsin (a non-profit, wholly owned subsidiary of Children's Hospital and Health System) to purchase and distribute child safety restraints systems to low income families.

It is assumed the bill would not increase or decrease the number of CSR convictions each year.

According to Division of Motor Vehicle records, there were 4,252 CSR convictions in 2002. Of these, 3,963 were for first offense and 255 were for second offense, and 34 were for third or subsequent offense.

The current Uniform State Traffic Deposit Schedule (established by the Wisconsin Judicial Conference) sets the standard forfeiture for CSR offenses at \$30 for first offense, \$50 for second offense, and \$100 for third or subsequent offense.

This bill increases the minimum forfeiture for first offense CSR violations to \$50 each. The minimum forfeiture for repeat CSR offenses would be \$75 each. It is assumed the Deposit Schedule would be adjusted to reflect the higher minimum for first offense and second offense violations, but there would be no change for third or subsequent offenses.

#### CSR FORFEITURE REVENUES UNDER CURRENT LAW (to Common School Fund)

1st offense:  $3,963 \times \$30 \times 0.5 = \$59,445.00$

2nd offense:  $255 \times \$50 \times 0.5 = \$6,375.00$

3+ offense:  $34 \times \$100 \times 0.5 = \$1,700.00$

TOTAL = \$67,520.00

#### CSR FORFEITURE REVENUES UNDER PROPOSED LAW (to Transportation Fund)

1st offense:  $3,963 \times \$50 \times 0.5 = \$99,075.00$

2nd offense:  $255 \times \$75 \times 0.5 = \$9,562.50$

3+ offense:  $34 \times \$100 \times 0.5 = \$1,700.00$

TOTAL = \$110,337.50

### Long-Range Fiscal Implications

## Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect



Original



Updated



Corrected



Supplemental

<b>LRB Number</b> <b>03-1094/3</b>		<b>Introduction Number</b>	
<b>Subject</b>			
Location of children in vehicles and use of safety belts and child booster seats			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes	\$		
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
<b>TOTAL State Costs by Category</b>	\$	\$	
<b>B. State Costs by Source of Funds</b>			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>			
	Increased Rev	Decreased Rev	
GPR Taxes	\$	\$	
GPR Earned		-67,520	
FED			
PRO/PRS			
SEG/SEG-S	110,338		
<b>TOTAL State Revenues</b>	<b>\$110,338</b>	<b>\$-67,520</b>	
<b>NET ANNUALIZED FISCAL IMPACT</b>			
	State	Local	
NET CHANGE IN COSTS	\$	\$	
NET CHANGE IN REVENUE	\$42,818	\$	
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
DOT/ Dennis Hughes (608) 267-9075		Carol Buckmaster (608) 267-6979	1/6/2004

**Gary, Aaron**

---

**From:** Gary, Aaron  
**Sent:** Thursday, December 18, 2003 3:39 PM  
**To:** Marschman, Kathy  
**Subject:** LRB-1094/3

Kathy,

This bill has not yet been jacketed. When I hear back from you on the legal entity description we discussed, I will redraft it as a "/4" and send the "/4" out jacketed. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

Post Office Box 8953  
Madison, Wisconsin 53708  
Office: 608-266-1182  
Toll Free: 888-534-0086  
Fax: 608-282-3686

**Representative  
Jerry Petrowski  
86<sup>th</sup> Assembly District**

# Fax

<b>To:</b>	Peggy Hurley	<b>From:</b>	Kathy Marschman
<b>Fax:</b>	264-6948	<b>Pages:</b>	3 (including this cover sheet)
<b>Phone:</b>	266-8906	<b>Date:</b>	30 December 2003
<b>Re:</b>	LRB 1094	<b>CC:</b>	

☐ **Urgent**    ☐ **For Review**    ☐ **Please Comment**    ☐ **Please Reply**    ☐ **Please Recycle**

• **Comments:**

Peggy-

The following are pages 4 and 5 from LRB 1094/3, with the language changes indicated. "CHHS" refers to "Children's Hospital and Health System".

Would appreciate if you could have the bill jacketed immediately and sent over, along with a .pdf copy e-mailed. (We are planning a press conference early next week and I must distribute copies of the final draft before then.)

Please let me know if you have questions.

Thanks sooooooooooooo much!

  
Kathy

Dec-30-03 11:35am From-HEALTH EDUCATION CENTER

7650996

T-602 P.02/03 F-592

2003 - 2004 Legislature:

- 4 -

LRB-1094/3  
ARC:kmg:pg**BILL**

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1        **SECTION 1.** 20.395 (5) (gq) of the statutes is created to read:

2        20.395 (5) (gq) *Child Safety Restraint System Program, state funds.* All moneys  
3 received from forfeitures under s. 347.50 (3) (a) allocated to the state, for the purposes  
4 specified in s. 85.56.

5        **SECTION 2.** 25.40 (1) (ik) of the statutes is created to read:

6        25.40 (1) (ik) All moneys forwarded by county treasurers from forfeitures under  
7 s. 347.50 (3) (a), as provided in s. 59.25 (3) (jm).

8        **SECTION 3.** 59.25 (i) (jm) of the statutes is created to read:

9        59.25 (3) (jm) Forward to the state treasurer for deposit in the transportation  
10 fund under s. 25.40 (1) (ik) the 50 percent of the forfeitures under s. 347.50 (3) (a) that  
11 is not retained under par. (j).

12        **SECTION 4.** 85.56 of the statutes is created to read:

13        **85.56 Child Safety Restraint System Program.** (1) The department shall  
14 develop and administer a program to provide to low-income families in this state  
15 child safety restraint systems, including infant and toddler car seats and child  
16 booster seats, for the purpose of promoting compliance with the requirements of s.  
17 347.48 (4). The department shall adopt rules to implement and administer this  
18 section, including standards and criteria for providing low-income families with  
19 child safety restraint systems.

20        (2) (a) For purposes of administering the program under sub. (1), the  
21 department shall enter into an agreement with ~~Safe Kids Wisconsin~~, a nonprofit corporation

CHHS

Dec-30-03 11:35am From-HEALTH EDUCATION CENTER

7650996

T-602 P.03/03 F-592

2003 -- 2004 Legislature

- 5 -

LRB-1094/3  
ARG:kmg:pg  
SECTION 4

## BILL

1 ~~wholly owned subsidiary of Children's Hospital and Health System~~ <sup>and</sup> an organization  
2 described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal  
3 income tax under section 501 (a) of the Internal Revenue Code, to make payments  
4 from the appropriation under s. 20.395 (5) (gg) to ~~Safe Kids Wisconsin~~ <sup>CHHS</sup> for the  
5 purchase and distribution of ~~child safety restraint systems~~ <sup>by SAFE KIDS WI, led by CHHS,</sup> to low-income families  
6 under the standards and criteria established by the department by rule.

7 (b) The agreement under this subsection shall require that ~~Safe Kids Wisconsin~~ <sup>CHHS</sup>  
8 annually submit to the presiding officer of each house of the legislature an audited  
9 financial statement of its use of the payments under this section, prepared in  
10 accordance with generally accepted accounting principles.

11 (c) Payments to ~~Safe Kids Wisconsin~~ <sup>CHHS</sup> under this section shall be discontinued  
12 by the department if either Safe Kids Wisconsin or Children's Hospital and Health  
13 System dissolves or is no longer exempt from taxation under section 501 (a) of the  
14 Internal Revenue Code, and the department shall designate a new recipient for  
15 payments under this section, which must be a nonprofit organization with a purpose  
16 of promoting child safety and which must comply with any requirement specified in  
17 this section for Safe Kids Wisconsin.

18 SECTION 5. 343.32 (2) (bt) of the statutes is amended to read:

19 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit  
20 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (a) (am).

21 SECTION 6. 347.48 (2m) (c) of the statutes is amended to read:

22 347.48 (2m) (c) If Subject to s. 347.482, if a motor vehicle is required to be  
23 equipped with safety belts in this state, no person may operate that motor vehicle  
24 unless he or she reasonably believes that each passenger who is at least 4-8 years  
25 old and not more than 15-16 years old and who is seated at a designated seating



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1094/4  
ARG:kmg:pg

TODAY  
1/2 A.M.

AMR

2003 BILL

Gen. Cat.

1 AN ACT *to repeal* 347.50 (4); *to renumber and amend* 347.48 (4) (a) 1., 347.48  
2 (4) (a) 2. and 347.48 (4) (a) 3.; *to amend* 343.32 (2) (bt), 347.48 (2m) (c), 347.48  
3 (2m) (d), 347.48 (4) (b), 347.48 (4) (d), 347.487 (title), 347.50 (1), 347.50 (3) (a)  
4 and 347.50 (3) (b); and *to create* 20.395 (5) (gq), 25.40 (1) (ik), 59.25 (3) (jm),  
5 85.56, 347.48 (4) (ag), 347.48 (4) (as), 347.482 and 347.50 (3) (b) 3. of the  
6 statutes; **relating to:** child safety restraint systems, seating positions, and  
7 safety belt use requirements in motor vehicles, creating a Child Safety  
8 Restraint System Program, granting rule-making authority, making an  
9 appropriation<sup>v</sup> and providing a penalty.

***Analysis by the Legislative Reference Bureau***

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). A person who fails to comply with the child safety seat requirement is subject to a forfeiture of not less than \$30 nor more than \$75, but no forfeiture may be assessed if the vehicle was not

**BILL**

equipped with a child safety seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle. A person who fails to comply with the seat belt requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200.

This bill creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. Under this bill, a child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

2. At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

3. At least four years old but less than eight years old, weighs between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat positioned according to the child seating requirements described below.

4. Under the age of eight and exceeds the weight or height limits specified in Item 3., above, must be properly restrained by a seat belt (as under current law), and is subject to the child seating requirements specified below.

If a child, because of age, weight, or height, falls into more than one of these categories, the child must be transported according to the requirements of the more protective category. If a vehicle is not equipped with a back seat, the seating position requirement under Items 1. and 2., above, does not apply.

This bill prohibits a person from transporting a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Under the bill, the same penalty applies regardless of which specific requirement is violated. A person who fails to comply with any of these requirements is subject to a forfeiture of not less than \$50 nor more than \$75 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$75 nor more than \$200. However, no forfeiture may be assessed if the vehicle was not equipped with an applicable child safety restraint system at the time of the violation, the person provides proof that, within 30 days after the violation, a child safety restraint system was purchased or leased and properly installed in the vehicle, and the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within the immediately preceding three years.

**BILL***Children's Hospital and Health System (CHHS)*

The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least four years old but less than 12 years old is seated in a designated seating position as follows:

1. In a back seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.
2. If the vehicle does not have a seat described in Item 1., above, then in a front seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.
3. If the vehicle does not have a seat described in either Item 1. or 2., above, then in a back seat, unless each such seat is occupied by a younger or smaller child who is properly restrained.
4. If the vehicle does not have a seat described in any of Items 1. to 3., above, then in any seat determined by the vehicle operator to be the safest considering the child's age and size.

These requirements do not apply to a child required to be transported in a rear-facing or forward-facing child safety seat, who, as described above, must be transported in a back seat. Items 1. and 3., above, do not apply if the vehicle is not equipped with a back seat. A person who fails to comply with these requirements is subject to a forfeiture of \$10.

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years is properly restrained by a seat belt. No person who is at least four years old may be a passenger in the front seat of a motor vehicle, or in a seat other than the front seat for which a shoulder harness has been installed, unless that person is properly restrained. This bill extends this seat belt requirement to passengers up to the age of 16 years and applies the requirement to passengers in seats other than the front seat for which safety belts are required to be installed.

The bill also requires DOT to develop and administer a program to provide child safety restraint systems to low-income families in this state. To administer the program, DOT must enter into an agreement with ~~Safe Kids Wisconsin~~ to provide funds to ~~Safe Kids Wisconsin~~ to purchase and distribute child safety restraint systems to low-income families in accordance with standards and criteria established by rule by DOT. ~~Safe Kids Wisconsin~~ must annually submit an audited financial statement of its use of the funds and may not receive funding if it dissolves or loses its tax-exempt status under federal law.

Under current law, fines and forfeitures collected as a result of convictions for state traffic offenses are divided between the collecting local government and the state. Generally, 50 percent of all fines and forfeitures for state traffic offenses is deposited in the common school fund, but a different allocation, involving the deposit of 40 percent of all fines or forfeitures in the transportation fund and ten percent in the common school fund, is made for offenses related to the size, weight, and load of vehicles. This bill requires 50 percent of all forfeitures collected for child safety restraint system violations to be deposited in the transportation fund to be used exclusively for the Child Safety Restraint System Program.

, through Safe Kids Wisconsin,

**BILL**

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 20.395 (5) (gq) of the statutes is created to read:

2       20.395 (5) (gq) *Child Safety Restraint System Program, state funds.* All moneys  
3 received from forfeitures under s. 347.50 (3) (a) allocated to the state, for the purposes  
4 specified in s. 85.56.

5       **SECTION 2.** 25.40 (1) (ik) of the statutes is created to read:

6       25.40 (1) (ik) All moneys forwarded by county treasurers from forfeitures under  
7 s. 347.50 (3) (a), as provided in s. 59.25 (3) (jm).

8       **SECTION 3.** 59.25 (3) (jm) of the statutes is created to read:

9       59.25 (3) (jm) Forward to the state treasurer for deposit in the transportation  
10 fund under s. 25.40 (1) (ik) the 50 percent of the forfeitures under s. 347.50 (3) (a) that  
11 is not retained under par. (j).

12       **SECTION 4.** 85.56 of the statutes is created to read:

13       **85.56 Child Safety Restraint System Program.** (1) The department shall  
14 develop and administer a program to provide to low-income families in this state  
15 child safety restraint systems, including infant and toddler car seats and child  
16 booster seats, for the purpose of promoting compliance with the requirements of s.  
17 347.48 (4). The department shall adopt rules to implement and administer this  
18 section, including standards and criteria for providing low-income families with  
19 child safety restraint systems.

20       (2) (a) For purposes of administering the program under sub. (1), the  
21 department shall enter into an agreement with *Safe Kids Wisconsin, a nonprofit,*

## BILL

a nonprofit corporation and

1 ~~wholly owned subsidiary of~~ Children's Hospital and Health System, an organization  
 2 described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal  
 3 income tax under section 501 (a) of the Internal Revenue Code, to make payments  
 4 from the appropriation under s. 20.395 (5) (gq) to ~~Safe Kids Wisconsin~~ for the  
 5 purchase and distribution of child safety restraint systems to low-income families  
 6 under the standards and criteria established by the department by rule.

7 (b) The agreement under this subsection shall require that ~~Safe Kids Wisconsin~~  
 8 annually submit to the presiding officer of each house of the legislature an audited  
 9 financial statement of its use of the payments under this section, prepared in  
 10 accordance with generally accepted accounting principles.

11 (c) Payments to ~~Safe Kids Wisconsin~~ under this section shall be discontinued  
 12 by the department if either Safe Kids Wisconsin or Children's Hospital and Health  
 13 System dissolves or is no longer exempt from taxation under section 501 (a) of the  
 14 Internal Revenue Code, and the department shall designate a new recipient for  
 15 payments under this section, which must be a nonprofit organization with a purpose  
 16 of promoting child safety and which must comply with any requirement specified in  
 17 this section for <sup>or</sup> Safe Kids Wisconsin.

18 SECTION 5. 343.32 (2) (bt) of the statutes is amended to read:

19 343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit  
 20 points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (a) (am).

21 SECTION 6. 347.48 (2m) (c) of the statutes is amended to read:

22 347.48 (2m) (c) If Subject to s. 347.482, if a motor vehicle is required to be  
 23 equipped with safety belts in this state, no person may operate that motor vehicle  
 24 unless he or she reasonably believes that each passenger who is at least ~~4~~ 8 years  
 25 old and not more than ~~15~~ 16 years old and who is seated at a designated seating

by Safe Kids  
Wisconsin, led by

Children's Hospital and Health System

**BILL**

1 position in the front seat required under 49 CFR 571 to have a safety belt installed  
2 or at a designated seating position in the seats, other than the front seats, for which  
3 a ~~shoulder harness has been~~ safety belt is required to be installed is properly  
4 restrained.

5 **SECTION 7.** 347.48 (2m) (d) of the statutes is amended to read:

6 347.48 (2m) (d) If Subject to s. 347.482, if a motor vehicle is required to be  
7 equipped with safety belts in this state, no person who is at least ~~4~~ 8 years old and  
8 who is seated at a designated seating position in the front seat required under 49  
9 CFR 571 to have a safety belt installed or at a designated seating position in the  
10 seats, other than the front seats, for which a ~~shoulder harness has been~~ safety belt  
11 is required to be installed may be a passenger in that motor vehicle unless the person  
12 is properly restrained.

13 **SECTION 8.** 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and  
14 amended to read:

15 347.48 (4) (am) No Subject to par. (au), no person may transport a child under  
16 the age of ~~4~~ 8 in a motor vehicle unless the child is properly restrained in compliance  
17 with par. (as) in a child safety restraint system is approved that is appropriate to the  
18 child's age and size and that meets the standards established by the department. ~~In~~  
19 ~~this subdivision, "properly restrained" means fastened in a manner prescribed by the~~  
20 ~~manufacturer of the system which permits the system to act as a body restraint but~~  
21 ~~does not include a system in which the only body restraint is a safety belt of the type~~  
22 ~~required under sub. (1) under this paragraph.~~ The department shall, by rule,  
23 establish standards in compliance with applicable federal standards, including  
24 standards under 49 CFR 571.213, for approved types of child safety restraint  
25 systems for these child restraint systems purchased after November 1, 1982.

**BILL**

1           **SECTION 9.** 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and  
2 amended to read:

3           347.48 (4) (as) 4. ~~No person may transport a~~ Subject to subds. 1. to 3., if the  
4 ~~child who is at least 4 years old but is less than 8 years old in a motor vehicle unless,~~  
5 ~~the child is~~ shall be properly restrained in a child safety restraint system approved  
6 ~~by the department under subd. 1. or in a~~ safety belt approved by the department  
7 under sub. (2). ~~In this subdivision, “properly restrained” means fastened in a~~  
8 ~~manner prescribed by the manufacturer of the system which permits the system to~~  
9 ~~act as a body restraint, positioned in compliance with s. 347.482.~~

10           **SECTION 10.** 347.48 (4) (a) 3. of the statutes is renumbered 347.48 (4) (au), and  
11 347.48 (4) (au) (intro.), as renumbered, is amended to read:

12           347.48 (4) (au) (intro.) Notwithstanding subds. 1. and 2. pars. (am) and (as),  
13 a person other than the operator of a motor vehicle transporting a child required to  
14 be properly restrained under subd. 1. or 2. pars. (am) and (as) may temporarily  
15 remove a child from a safety restraint system to attend to the personal needs of the  
16 child under all of the following conditions:

17           **SECTION 11.** 347.48 (4) (ag) of the statutes is created to read:

18           347.48 (4) (ag) In this subsection:

19           1. “Child booster seat” means a child passenger restraint system that meets the  
20 applicable federal standards under 49 CFR 571.213 and is designed to elevate a child  
21 from a vehicle seat to allow the vehicle’s safety belt to be properly positioned over the  
22 child’s body.

23           2. “Designated seating position” has the meaning given in 49 CFR 571.3.

24           3. “Properly restrained” means any of the following:

**BILL**

1           a. With respect to par. (as) 1. and 2., fastened in a manner prescribed by the  
2 manufacturer of the child safety restraint system which permits the system to act  
3 as a body restraint but does not include a system in which the only body restraint is  
4 a safety belt of the type required under sub. (1).

5           b. With respect to par. (as) 3., wearing a safety belt consisting of a combination  
6 lap belt and shoulder harness approved by the department under sub. (2) and  
7 fastened in a manner prescribed by the manufacturer of the safety belt so that the  
8 safety belt properly fits across the child's lap and the center of the child's chest in a  
9 manner appropriate to the child's height, weight, and age that permits the safety belt  
10 to act as a body restraint.

11           c. With respect to par. (as) 4., fastened in a manner prescribed by the  
12 manufacturer of the system which permits the system to act as a body restraint.

13           **SECTION 12.** 347.48 (4) (as) of the statutes is created to read:

14           347.48 (4) (as) A child under the age of 8 years who is being transported in a  
15 motor vehicle shall be restrained as follows:

16           1. If the child is less than one year old or weighs less than 20 pounds, the child  
17 shall be properly restrained in a rear-facing child safety restraint system, positioned  
18 at a designated seating position in a back passenger seat of the vehicle if the vehicle  
19 is equipped with a back passenger seat.

20           2. Subject to subd. 1., if the child is at least one year old and weighs at least 20  
21 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be  
22 properly restrained in a forward-facing child safety restraint system, positioned at  
23 a designated seating position in a back passenger seat of the vehicle if the vehicle is  
24 equipped with a back passenger seat.

**BILL**

1           3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8  
2       years old, weighs at least 40 pounds but not more than 80 pounds, and is not more  
3       than 57 inches in height, the child shall be properly restrained in a child booster seat,  
4       positioned in compliance with s. 347.482.

5           **SECTION 13.** 347.48 (4) (b) of the statutes is amended to read:

6           347.48 (4) (b) The department may, by rule, exempt from the requirements  
7       under ~~par. (a)~~ pars. (am) and (as) any child who because of a physical or medical  
8       condition or body size cannot be placed in a child safety restraint system, child  
9       booster seat, or safety belt.

10          **SECTION 14.** 347.48 (4) (d) of the statutes is amended to read:

11          347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ pars.  
12       (am) and (as) is admissible in any civil action for personal injuries or property  
13       damage resulting from the use or operation of a motor vehicle but failure to comply  
14       with ~~par. (a)~~ pars. (am) and (as) does not by itself constitute negligence.

15          **SECTION 15.** 347.482 of the statutes is created to read:

16          **347.482 Child seating requirements.** (1) In this section, “designated  
17       seating position” has the meaning given in 49 CFR 571.3.

18          (2) Except as provided in s. 347.48 (4) (as) 1. and 2., no person may operate a  
19       motor vehicle unless he or she reasonably believes that each passenger who is less  
20       than 12 years old is seated as follows:

21          (a) At a designated seating position in a back passenger seat of the vehicle if  
22       the seating position is equipped with a combination lap belt and shoulder harness,  
23       unless all such seating positions are occupied by other passengers who are younger  
24       or weigh less and who are properly restrained in compliance with s. 347.48 (4).

**BILL**

(b) If the vehicle is not equipped with a seating position specified in par. (a), at a designated seating position in a front passenger seat of the vehicle if the seating position is equipped with a combination lap belt and shoulder harness, unless all such seating positions are occupied by other passengers who are younger or weigh less and who are properly restrained in compliance with s. 347.48 (4).

(c) If the vehicle is not equipped with a seating position specified in par. (a) or (b), at a designated seating position in a back passenger seat of the vehicle, unless all such seating positions are occupied by other passengers who are younger or weigh less and who are properly restrained in compliance with s. 347.48 (4).

(d) If the vehicle is not equipped with a seating position specified in par. (a), (b), or (c), at any designated seating position determined by the operator to be the safest seating position considering the age and size of the passenger.

(3) Subsection (2) (a) and (c) does not apply if the vehicle is not equipped with a back passenger seat.

**SECTION 16.** 347.487 (title) of the statutes is amended to read:

**347.487 (title) Seating Motorcycle seating requirements.**

**SECTION 17.** 347.50 (1) of the statutes is amended to read:

347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s. 347.415 (1), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4) (a) or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

**SECTION 18.** 347.50 (3) (a) of the statutes is amended to read:

347.50 (3) (a) Any person violating s. 347.48 (4) ~~(a) 1. (am)~~ may be required to forfeit not less than ~~\$30~~ \$50 nor more than \$75. For a 2nd or subsequent conviction within 3 years, a person may be required to forfeit not less than \$75 nor more than \$200.

**BILL**

**SECTION 19.** 347.50 (3) (b) of the statutes is amended to read:

347.50 (3) (b) No forfeiture may be assessed under par. (a) if all of the following  
apply:

1. The motor vehicle was not equipped with a child safety restraint system meeting the requirements under s. 347.48 (4) (a) ~~1.~~ (am) at the time the uniform traffic citation was issued; and.

2. The person provides proof that, within 30 days after the uniform traffic citation was issued, a child safety restraint system meeting the requirements under s. 347.48 (4) (a)-1, (am) was purchased or leased and properly installed in the motor vehicle.

**SECTION 20.** 347.50 (3) (b) 3. of the statutes is created to read:

347.50 (3) (b) 3. The person has not, within the immediately preceding 3 years, been issued a uniform traffic citation for a violation of s. 347.48 (4) (am).

**SECTION 21.** 347.50 (4) of the statutes is repealed.

## SECTION 22. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

**SECTION 23. Effective date.**

(1) This act takes effect on the first day of the 4th month beginning after publication.

**(END)**